



Entered on Docket
October 12, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:)
)
USA COMMERCIAL MORTGAGE)
COMPANY,)
)
USA CAPITAL REALTY ADVISORS,)
LLC,)
)
USA CAPITAL DIVERSIFIED TRUST)
DEED FUND, LLC,)
)
USA CAPITAL FIRST TRUST DEED)
FUND, LLC,)
)
USA SECURITIES, LLC,)
Debtors.)

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Date: April 26, 2007
Time: 9:30 a.m

Affecting:

☐ All Cases

or Only:

- ☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

**ORDER SUSTAINING THIRTY-FIFTH OMNIBUS OBJECTION
OF THE USACM LIQUIDATING TRUST TO CLAIMS ASSERTING SECURED
STATUS EXCEPT PROOF OF CLAIM NO. 10725-02353 FILED BY
THE MUSSO LIVING TRUST**

The USACM Liquidating Trust (the “USACM Trust”) filed its Thirty-Fifth Omnibus Objection to Claims Asserting Secured Status [DE 4615] (the “Objection”) on August 22, 2007. Appropriate notice of the Objection was given. A Response to the Objection was raised as follows:

- On August 31, 2007, Walter Musso, Trustee of the Musso Living Trust, contacted counsel for the Trust. Upon being provided additional information, the Musso Living Trust conceded that the claim was not properly classified as a secured claim, and a Stipulation was entered into on September 19, 2007 [DE 4817] reclassifying the claim as an unsecured claim in the amount of \$623,004.79, without prejudice to additional objections at a later date. Counsel has deleted the Musso Living Trust’s claim from the Exhibit to the Thirty-Fifth Omnibus Objection attached to this Order.

No other responses were filed with this Court. The Objection came before the Court for hearing on September 28, 2007 at 9:30 a.m. Good cause appearing, it is

ORDERED:

- Sustaining the USACM Trust’s Thirty-Fifth Omnibus Objection to Claims Asserting Secured Status;
- Reclassifying the Proofs of Claim listed on Exhibit A attached as general unsecured claims; and
- Reserving the right of any party in interest, including the USACM Trust, to further object to any and all claims listed on Exhibit A attached as unsecured claims or otherwise, whether or not the subject of this Objection.

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1 PREPARED AND SUBMITTED:

2 **LEWIS AND ROCA LLP**

3 By: /s/ RC (#0006593)

4 Susan M. Freeman

5 Rob Charles

6 *Attorneys for USACM Liquidating Trust*

7 **CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021**

8 In accordance with Local Rule 9021, the undersigned certifies:

9 ☐ The Court waived the requirements of LR 9021.

10 ☒ I have delivered a copy of this proposed order to all counsel who appeared at the
11 hearing, any unrepresented parties who appeared at the hearing, and any trustee
appointed in this case, and each has approved or disapproved the order, or failed
to respond, as indicated below:

12 ☐ approved the form of this order;

13 ☐ waived the right to review the order;

14 ☐ failed to file and serve papers in accordance with LR 9021(c); and/or

15 ☐ failed to sign and return this proposed order within five (5) business days
in accordance with LR 9021(b).

16 ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented
17 parties who appeared at the hearing regarding this matter and/or who filed a
written objection and all have either approved the form of this order, waived the
18 right to review the order, failed to file and serve papers in accordance with LR
9021(c) and the following have disapproved the form of the order.

19 ☒ No opposition was filed and no other party or counsel appeared at the hearing.

20 **LEWIS AND ROCA LLP**

21 By: /s/ RC (#0006593)

22 Susan M. Freeman

23 Rob Charles

24 *Attorneys for USACM Liquidating Trust*

USACM Liquidating Trust
OBJECTION TO CLAIMS ASSERTING SECURED STATUS
 RECLASSIFY AS GENERAL UNSECURED CLAIM

| <u>Claimant</u> | <u>Proof of Claim No.</u> | <u>Proof of Claim Amount</u> | <u>Proof of Claim Classification</u> |
|--------------------------------------------------------------------------------------------------|--------------------------------------|-----------------------------------------|-------------------------------------------------|
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02247 | \$48,992.69 | Secured |
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02248 | \$50,941.63 | Secured |
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02249 | \$51,047.26 | Secured |
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02250 | \$51,516.96 | Secured |
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02251 | \$98,158.13 | Secured |
| McQuerry Family Trust William McQuerry 318 Singing Brook Cir. Santa Rosa, CA 95409-6483 | 10725-02252 | \$50,481.17 | Secured |
| Melvin, Teri L. 2704 Chokecherry Avenue Henderson, NV 89074-1990 | 10725-02348 | \$97,670.00 | Secured |
| Melvin, Teri L. 2704 Chokecherry Avenue Henderson, NV 89074-1990 | 10725-02349 | \$100,000.00 | Secured |
| Melvin, Teri L. 2704 Chokecherry Avenue Henderson, NV 89074-1990 | 10725-02351 | \$49,561.13 | Secured |

EXHIBIT A

USACM Liquidating Trust
OBJECTION TO CLAIMS ASSERTING SECURED STATUS
 RECLASSIFY AS GENERAL UNSECURED CLAIM

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--------------|---------|
| Melvin, Teri 2704 Chokecherry Way Henderson, NV 89014 | 10725-02421 | \$613,561.41 | Secured |
| Minter Family 1994 Trust Douglas & Elizabeth F. Minter, Trustees 5389 Conte Drive Carson City, NV 89701 | 10725-02383 | \$622,044.87 | Secured |
| Minter Family 1994 Trust Douglas & Elizabeth F. Minter, Trustees 5389 Conte Drive Carson City, NV 89701 | 10725-02384 | \$12,267.64 | Secured |
| Moore, Arthur B. 994 Lilac Ct. Minden, NV 89423-5131 | 10725-00561 | \$15,542.15 | Secured |
| Moore, Raymond C. & Rose 902 University Ridge Drive Reno, NV 89512 | 10725-02345 | \$40,477.76 | Secured |
| Morgan, Kenneth G., Trustee Kenneth G. Morgan Living Trust 3080 Red Springs Drive Las Vegas, NV 09135 | 10725-00830 | \$26,028.62 | Secured |
| Nirenstein, Allen & Dorothy, Trustees Allen M. & Dorothy H. Nirenstein 1992 Rev Trust Dated 3/4/92 403 Woodland Rd. Kentfield, CA 94904-2635 | 10725-02411 | \$402,819.63 | Secured |
| Nirenstein, Allen & Dorothy, Trustees Allen M. & Dorothy H. Nirenstein 1992 Rev Trust Dated 3/4/92 403 Woodland Rd. Kentfield, CA 94904-2635 | 10725-02412 | \$56,649.99 | Secured |

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 RECLASSIFY AS GENERAL UNSECURED CLAIM

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|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--------------|---------|
| Nirenstein, Allen & Dorothy, Trustees Allen M. & Dorothy H. Nirenstein 1992 Rev Trust Dated 3/4/92 403 Woodland Rd. Kentfield, CA 94904-2635 | 10725-02413 | \$102,152.78 | Secured |
| Nirenstein, Allen & Dorothy, Trustees Allen M. & Dorothy H. Nirenstein 1992 Rev Trust Dated 3/4/92 403 Woodland Rd. Kentfield, CA 94904-2635 | 10725-02414 | \$50,590.28 | Secured |
| Nirenstein, Allen & Dorothy, Trustees Allen M. & Dorothy H. Nirenstein 1992 Rev Trust Dated 3/4/92 403 Woodland Rd. Kentfield, CA 94904-2635 | 10725-02415 | \$92,700.00 | Secured |
| Patterson-Rogers Family Trust Dated 09/05/01 Robert C. & Joyce Patterson-Rogers, Trustees P. O. Box 60175 Las Vegas, NV 89160 | 10725-02338 | \$768.46 | Secured |
| Patterson-Rogers Family Trust Dated 09/05/01 Robert C. & Joyce Patterson-Rogers, Trustees P. O. Box 60175 Las Vegas, NV 89160 | 10725-02338 | \$50,000.00 | Secured |
| Prescia Investments Anthony & Nancy, Managers 5475 W. Teco Avenue Las Vegas, NV 89118-2814 | 17025-02390 | \$75,000.00 | Secured |
| Quinn, Sidney P.O. Box 340 Big Pine, CA 93513 | 10725-02439 | \$50,000.00 | Secured |

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 RECLASSIFY AS GENERAL UNSECURED CLAIM

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|----------------------------------------------------------------------------------------------------------------------|-------------|--------------|---------|
| Reed, Michael IRA First Savings Bank, Custodian 259 Overlook Drive Cadiz, KY 42211 | 10725-02357 | \$50,746.52 | Secured |
| Reed, Linda S. IRA First Savings Bank, Custodian 259 Overlook Drive Cadiz, KY 42211 | 10725-02358 | \$78,103.67 | Secured |
| Richards, Jean G., Trustee Jean G. Richards Trust Dated 9/30/99 1160 Magnolia Lane Lincoln, CA 95648 | 10725-02401 | \$156,596.03 | Secured |
| Roberts Family Trust Dated 4/28/04 c/o Sarah R. Roberts, Trustee 529 Clearview Dr. Los Gatos, CA 95032-1743 | 10725-01833 | \$15,001.78 | Secured |
| Rothberg, Sheila 21 Randolph Drive Dix Hills, NY 11746 | 10725-02374 | \$250,000.00 | Secured |
| Smith, Joyce E., Trustee Joyce E. Smith Trust Dated 11/3/99 3080 Red Springs Dr. Las Vegas, NV 89135-1548 | 10725-00908 | \$----- | Secured |
| Smith, Eldon N. 370 N. Pfeiffer Horn Dr. Alpine, UT 84004 | 10725-00072 | \$40,174.40 | Secured |
| Suarez, Tony 16 Bland Street Emerson, NJ 07630-1154 | 10725-02395 | \$45,884.10 | Secured |
| Topp, Gerry 10745 W. River Street Truckee, CA 96161 | 10725-02416 | \$260,703.10 | Secured |
| Von Berg, Marietta S. 24622 Rimrock Canyon Road Salinas, CA 93908 | 10725-02385 | \$54,276.03 | Secured |

EXHIBIT A

USACM Liquidating Trust
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 RECLASSIFY AS GENERAL UNSECURED CLAIM

| | | | |
|-------------------------------------------------------------------------------------------------------------------------|---------------|--------------|---------|
| Walter, Diane c/o Beesley Matteoni Ltd. Caryn S. Tijsseling Esq. 5011 Meadowood Mall Way SUI Reno, NV 89502 | 10725-00062-2 | \$50,000.00 | Secured |
| Weeks, David & Janelle 4400 Clyde Casper, WY 82609 | 10725-02409 | \$53,347.72 | Secured |
| Weible 1981 Trust Dated 6/30/81 Ardis & Dean F. Weible, Co-Trustees 6314 Tara Avenue Las Vegas, NV 89146 | 10725-02402 | \$157,596.55 | Secured |
| Weible 1981 Trust Dated 6/30/81 Ardis & Dean F. Weible, Co-Trustees 6314 Tara Avenue Las Vegas, NV 89146 | 10725-02403 | \$277,838.39 | Secured |
| Westbrook, Connie 14320 Ghost Rider Dr. Reno, NV 89511 | 10725-01679 | \$120,000.00 | Secured |
| Westbrook, Connie 14320 Ghost Rider Dr. Reno, NV 89511 | 10725-01685 | \$50,000.00 | Secured |
| What's On Limited Partnership 2013 Grouse Street Las Vegas, NV 89134 | 10725-02360 | \$100,000.00 | Secured |
| Whitman Trust Dated 12/01/04 c/o H. Daniel Whitman, Trustee P.O. Box 10200 Zephyr Cove, NV 89448-2200 | 10725-02367 | \$203,206.82 | Secured |
| Wong, Juliet 2223 25 th Avenue San Francisco, CA 94116 | 10725-02389 | \$50,716.38 | Secured |
| Yerushalmi, Mazal 8904 Greensboro Lane Las Vegas, NV 89134-0502 | 10725-02568 | \$40,174.40 | Secured |

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